

FREDERICK COUNTY PLANNING COMMISSION
Minutes of Meeting for
June 21, 2023
In Person/Virtual Meeting

See video for further meeting details: <http://frederickcountymd.gov/5956/Video-Archives>

Members Present: Craig Hicks, Chair; Joel Rensberger, Vice Chair; Tim Davis, Secretary; Sam Tressler III, Carole Sepe; and Robert White, Jr. Due to technical difficulties, Mr. White joined via WebEx at 11:30 a.m.; however, he was able to view the meeting prior to accessing WebEx.

Members Absent: Masai Troutman.

Staff Present: Kimberly Gaines, Livable Frederick Director; Kathy Mitchell, Senior Assistant County Attorney; Ashley Moore, Senior Planner; Cody Shaw, Principal Planner II; Amanda Whitmore, Principal Planner II, Historic Preservation; Mark Mishler, Traffic Engineer; and Karen James, Administrative Specialist.

The meeting was called to order at 9:30 a.m.

1. **PLEDGE OF ALLEGIANCE** – Mr. Hicks

2. **ROLL CALL** – Mr. Hicks

3. **EXECUTIVE COMMITTEE REPORT**

No report

4. **SPECIAL COMMITTEE REPORTS**

No report

5. **PLANNING COMMISSION COMMENTS**

Ms. Sepe asked that the Planning Commission letter on school adequacy be added to the day's agenda.

Decision: Mr. Hicks moved that the Planning Commission approve the addition of the school adequacy letter to the agenda after the Development Review items. Mr. Rensberger seconded the motion which passed 5-0-0-2.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White				X

Troutman				X
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Mr. Rensberger talked about the role and powers of the Planning Commission, having recently spoken to someone who expressed disappointment over a decision that had been made. He then shared, "That unlike a legislator, the Frederick County Planning Commission is a quasi-judicial body, and as such, we don't make the rules, we interpret them. And from time to time, that means in doing our jobs we may make a decision that we don't like or agree with, but it's still the correct and judicious decision that we have to reach. And, I think some folks may have lost sight of that."

Mr. Hicks reminded everyone of the upcoming public hearing on the South Frederick Corridors Plan, scheduled for 6:30 p.m. June 29, 2023.

6. AGENCY COMMENTS/AGENDA BRIEFING

INFORMATIONAL

In addition to the South Frederick Corridors Plan hearing on June 29, Ms. Gaines announced meetings in July, including July 12, 2023, at 9:30 a.m. featuring three Development Review items and if time allows a South Frederick Corridors workshop. On July 20, 2023, at 6:30 p.m. there will be a public hearing on the amendment to the Sugarloaf Plan.

7. SITE PLAN

DECISION

- a) *Linganore Town Center North – Lot N2* - The Applicant requested Site Plan approval to construct a 19,490 SQ FT Retail Store on a proposed 2.26-acre lot. Located on the West side of Eaglehead Drive. Tax Map 79, Parcel 6. Zoned Planned Unit Development (PUD). Planning Region: New Market. SP21-02 (SP263995).
Cody Shaw, Principal Planner II

Staff Presentation: Cody Shaw

Cross Examination of staff by Hebba Hassanein.

Questions by Planning Commission members followed the presentation. Mr. Rensberger questioned the modifications requested; explanations provided by Mr. Shaw and Mr. Mishler. Traffic was discussed as was parking. Mr. Mishler explained traffic studies and when certain needs are triggered, noting that this application is exempt from APFO. Traffic discussion continued. Parking design was questioned and will be discussed with the applicant. Ms. Sepe asked if there will be a sidewalk behind Lot N1. Mr. Mishler confirmed there will be a sidewalk. Sidewalk discussion continued.

Applicant Presentation:

Jason Wiley, Elm Street Development
Tim Crawford, Rodgers Consulting
Adeniyi Paul, Bignell Watkins Hasser Architects
Noel Manalo, Law Offices of McNees Wallace & Nurick LLC

Mr. Crawford explained the building orientation as well as parking and rear parking screening. Mr. Rensberger stated that the goal should be 100 percent native landscaping. Applicant team talked about existing fencing and the possibility of covered bike racks. Traffic was revisited including expressions of concern for the number of young drivers in the area.

Public Comment:

Recorded messages: 0

Live call-ins: 0
In person: 1

The possibility of a signal warrant analysis was discussed and how it might be triggered.

Break taken at 11:18 a.m. Meeting resumed at 11:26 a.m.

Applicant rebuttal: Mr. Manalo, Mr. Crawford, and Mr. Wiley.

Ms. Sepe said she hoped the applicant would proffer to work with the school to determine whether or not a new access can be provided to the kids to turn into the parking lot – traffic signals or whatever is warranted and to work with the school and the PTSA, and that maybe the entrance to the student parking lot is the problem and can be rerouted.

Decision: Mr. Rensberger moved the Planning Commission approve the Site Plan SP21-02, AP SP263995 with conditions and modifications as listed in the staff report for the proposed Retail Store, based on the findings and conclusions of the staff report and the testimony including the proffer by Mr. Wiley to facilitate collaboration between DPW, the PTSA and consider signage, fencing and education, exhibits, and documentary evidence produced at the public meeting. Seconded by Mr. Tressler. Ms. Sepe asked to amend to add FCPS to the collaboration. Agreed to by Mr. Rensberger and Mr. Tressler. Motion passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

- b) *Linganore Town Center North – Lot N3* - The Applicant requested Site Plan approval to construct a 2,325 SQ FT Restaurant on a proposed 0.78-acre lot. Located on the West side of Eaglehead Drive. Tax Map 79, Parcel 6. Zoned Planned Unit Development (PUD). Planning Region: New Market. SP21-02 (SP263996).
Cody Shaw, Principal Planner II

Staff Presentation: Cody Shaw

Questions by Planning Commission members followed the presentation. Pedestrian traffic was discussed, along with dumpster location, shared dumpster, and drive thru queuing.

At 12:10 p.m. there was a brief power outage; WebEx connection was lost.

Applicant Presentation:

Jason Wiley, Elm Street Development
Tim Crawford, Rodgers Consulting
Adeniyi Paul, Bignell Watkins Hasser Architects
Noel Manalo, Law Offices of McNees Wallace & Nurick LLC

The applicant team responded to earlier questions. Architecture was discussed, as was the Historic National Road Guidelines.

Due to the earlier power outage and loss of the WebEx and Public Input connections, the meeting recessed for lunch at 12:21 p.m. Meeting resumed at 1:15 p.m.

Discussion continued including fencing and more about drive thru queuing and the possibility of double queuing. Ms. Sepe said the order board is often where a backup forms, more so than the pickup window. The applicant team said they would work with staff on this matter.

Public Comment: None

No further discussion.

Decision: Mr. Tressler moved the Planning Commission I move that the Planning Commission approve the Site Plan SP21-02, AP SP263996 with conditions and modifications as listed in the staff report for the proposed restaurant, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Mr. White seconded the motion. Ms. Sepe then asked if staff needed any more clarification on any future modification for the order board. It was decided that since it was discussed, it did not have to be part of the motion. Motion passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

- c) *Linganore Town Center North – Lot N4* - The Applicant requested Site Plan approval to construct a 2,225 SQ FT Restaurant on a proposed 1.04-acre lot. Located on the North side of Old National Pike. Tax Map 79, Parcel 6. Zoned Planned Unit Development (PUD). Planning Region: New Market. SP21-02 (SP263997).
Cody Shaw, Principal Planner II

Staff Presentation: Cody Shaw

Mr. Rensberger questioned the tree modification, Mr. Shaw explained the need because of utility lines and a retaining wall. Building orientation was discussed as was elevation and its relationship to the Historic National Road.

Applicant Presentation:

Jason Wiley, Elm Street Development
Tim Crawford, Rodgers Consulting
Adeniyi Paul, Bignell Watkins Hasser Architects
Noel Manalo, Law Offices of McNees Wallace & Nurick LLC

The applicant team responded to comments about building orientation. Mr. Rensberger questioned why the building was not oriented toward Old National Pike. Mr. Crawford said this was to increase the queue lengths for the drive thru, and provide outside seating, among other reasons. Orientation conversation continued. Mr. Wiley stated that the architecture is open for discussion. Mr. Davis commented that there is a beautiful overhang where the two bike racks could be placed. Mr. Wiley agreed saying they should make every effort to try to incorporate bike racks with awning and rain screening.

Mr. Paul was asked to explain the thought process behind the architecture, saying the overriding intent was to find design and architecture that was cohesive.

Ms. Whitmore joined the discussion explaining the transition zone in the Historic National Road Design Guidelines. She clarified that her comment was not to turn the building 90 degrees, but 180 degrees. Ms. Sepe asked for architecture that is more pleasing on the south side, further stating that if it were flipped it would make things worse in terms of function and maybe even the look of it.

Mr. Tressler said the site plan is the best fitting for the location. Mr. Rensberger reminded his colleagues that the appearance of a building is not the determiner of its internal use and function.

Ms. Sepe asked that the staff-proposed conditions of approval #5, "Minor architectural revisions (pending future user for the Site) to be reviewed and approved by Staff," and to include "any elevation on the south façade to work with Historic Preservation." Mr. Wiley said, "that's understood."

Public Comment: None

No further discussion.

Decision: Mr. Tressler moved the Planning Commission approve the Site Plan SP21-02, AP SP263997 with conditions and modifications as listed in the staff report for the proposed restaurant, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Mr. Davis seconded the motion. Mr. Hicks asked to confirm that the motion includes Ms. Sepe comments about condition of approval #5. Mr. Tressler said yes, and Mr. Davis agreed. Motion passed 4-2-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair		X		
Rensberger Vice-Chair		X		
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

- d) *Costco Wholesale Depot Trailer Expansion* - The Applicant requested Site Plan approval to construct a trailer storage lot of 266 spaces on a newly added parcel of 14.17-acres to the main Costco Campus. Located at 5236 Intercoastal Drive. Tax Map 88, Parcel 196. Zoned Limited Industrial (LI). Planning Region: New Market. SP02-21 (SP175028)
Jerry Muir, Principal Planner I

Staff Presentation: Cody Shaw

Planning Commission members asked for a definition of storage, and questioned if it is really a parking lot, leading to much discussion. Members questioned if the proposed use fits into the zoning ordinance. Ms. Mitchell researched some of the terms used during the questioning. Mr. Rensberger said he was pleased to hear proposed shade trees, shrubs, grasses and perennials are 100 percent native species.

Cross Examination of staff by Brent Simmons.

It was confirmed that the property is in the GI zone. Mr. White asked about the truck traffic, the problems created by the railroad bridge on MD 75 and, was there any calculation as to the impact of additional truck traffic. Mr. Mishler said the applicant could speak better on this, but these are existing trucks that are already going to the site.

Applicant Presentation:

Chris Lazenby, Ware Malcomb
Erich Brann, Costco Wholesale Corporation

Following Mr. Lazenby's presentation, Mr. Brann spoke, pointing out that they built truck turnarounds on either side of the bridge and drivers who come to the facility get an email before they arrive warning not to use MD 75 as a shortcut. Mr. White asked if this would add to truck traffic trying to access the facility on MD 75. Mr. Brann said that it would not. Mr. Brann confirmed that the gated entrance to Intercoastal Court will be closed and only for emergency use and said they would add a note to the site plan. Ms. Sepe asked about additional landscaping to prevent runoff towards the forest area. The applicant said they would investigate the landscaping and make sure it is appropriate. Questions and discussion continued.

Cross Examination of applicant team by Brent Simmons.

Public Comment:

Recorded messages: 0
Live call-ins: 0
In person: 1

Applicant rebuttal: Mr. Lazenby and Mr. Brann

No further discussion.

Decision: Ms. Sepe moved the Planning Commission approve SP275028 with the conditions as listed in the staff report for the proposed Costco Wholesale Depot Trailer Expansion facility based on the findings and conclusions on the staff report, the testimony, exhibits and documentary evidence and two additional conditions added by the Planning Commission to add a note on the site plan that the access drive from Intercoastal Drive would be emergency use only and adding landscaping on the south property line along the forest resource conservation area and adding trees along Intercoastal Drive in addition

to what's already been provided and documentary evidence as produced at the public meeting. Mr. Tressler seconded the motion which passed 4-2-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair		X		
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White		X		
Troutman				X

The remaining agenda items were discussed, and it was determined to proceed in the following order: Annual Report to Maryland Department of Planning, New Market Retail Preliminary Plan, and Letter on School Adequacy.

Break taken at 4:02 p.m. Meeting resumed at 4:08 p.m.

8. 2022 ANNUAL REPORT TO MDP

APPROVAL

Kimberly Gaines, Director, Livable Frederick

Denis Superczynski, Planning Manager/Principal Planner, Livable Frederick

Mr. Hicks expressed his thanks to Ms. Gaines, Mr. Superczynski, and staff who contributed to the report, and stated that it is the closest that he's seen to his personal ideal of an annual report. Ms. Gaines reviewed the changes and edits made, based on requests made at the last workshop. Planning Commission members discussed the edits that were made.

There was much discussion about Mixed-Use Development. Suggestions were made for additional edits. Agreement was reached to add the general description of mixed use. Edits were also recommended to the report regarding the agricultural land base. Discussion and edits continued, including adding a preface to the report explaining from the Planning Commission's perspective how they hope the County Council will be able to use this report.

Decision: Mr. Rensberger moved the Planning Commission approve the annual report as submitted on this day with forthcoming edits to be worked out between Ms. Gaines and Chairman Hicks. Mr. White seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			

Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

9. PRELIMINARY PLAN

DECISION

- a) *New Market Retail* - The Applicant requested Preliminary Plan approval to subdivide three lots (Lots 3, 4 and 5) and a remainder from the remaining 9.25-acres in the New Market Retail Center. Located in the 5400 block of Old National Pike. Tax Map 79, Parcel 183. Zoning General Commercial (GC). Planning Region: New Market. S1142 (PP274963, A274924 F274922)

Jerry Muir, Principal Planner I

Staff Presentation: Cody Shaw

Questions by Planning Commission members followed the presentation including building restriction lines and access. Mr. Mishler responded to questions regarding the LOU and traffic study and the order of events.

Applicant Presentation:

Wendy Fulton

Planning Commission members had no questions for the applicant.

Public Comment: None

Ms. Sepe asked if there had been any sidewalk requirements along the right-of-way. Mr. Mishler explained that had already been discussed with the New Market town planners and at the time of site plan there will be sidewalk along the frontage and internal connections, etc., but not at this stage.

Decision: Mr. Tressler moved the Planning Commission approve PP274963, A274924, with the conditions as listed in the staff report for the proposed New Market Retail Preliminary Plat, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Mr. Rensberger seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

10. SCHOOL ADEQUACY LETTER

DECISION

Prior to Mr. Hicks reading aloud the revised draft of the letter, Ms. Sepe shared comments, and Ms. Mitchell expressed that their office wishes the letter not would be sent at all. Ms. Mitchell further clarified that was not advice, just opinion.

Edits provided to the Planning Commission were discussed with much attention on item #1. Members determined that item #1 which had been struck through should remain. Ms. Mitchell explained the reasoning for the suggested removal. Further discussion led to Mr. Rensberger suggesting that the letter should go to the County Executive, the Legislature and the School Board, making the recommendations visible and potentially applicable to any one of them. Discussion continued. Mr. Davis suggested to include in the letter that on this date the Planning Commission discussed it, voted and this is the result of the vote.

Decision: Mr. Rensberger moved the Planning Commission advance the schools letter as read into the record by Mr. Hicks. Mr. Hicks said he would note that part of the discussion included addressing the letter not only to the County Executive, but also the school board and the Council. Mr. Rensberger then added the un-redaction of item #1 to the motion. Ms. Sepe seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

Mr. Hicks said he would work on the revisions, sign it, and have staff send out the letter.

The meeting was declared adjourned at 5:18 p.m.



Craig Hicks, Chair

9/20/23
Date